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OFFICE OF PETITIONS

PTO/SB/21 (08-03)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

6

Application Number

09/994,064

Filing Date

11/06/2001

First Named Inventor

Martha A. Wild, et al.

Art Unit

1648

Examiner Name

Zachariah Lucas

Attorney Docket Number

SY01106KQB

ENCLOSURES (Check all that apply)



Fee Transmittal Form

☐ Fee Attached

Amendment/Reply

☐ After Final☐ Affidavits/declaration(s)

Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Response to Missing Parts/
Incomplete Application☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

Remarks

After Allowance communication
to GroupAppeal Communication to Board
of Appeals and InterferencesAppeal Communication to Group
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please
Identify below):Certificate of Mailing (1 pg.);
Post Card

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm
or
Individual name

Michael D. Davis, Reg. No. 39,161

Signature

Michael D. Davis

Date

February 17, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

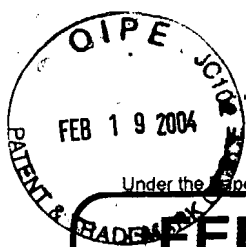
Typed or printed name

Signature

Date

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PTO/SB/17 (10-03)

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**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 130.00

Complete if Known

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Application Number 09/994,064

Filing Date 11/06/2001

FEB 25 2004

First Named Inventor Martha A. Wild, et al.

Examiner Name Zachariah Lucas

OFFICE OF PETITIONS

Art Unit 1648

Attorney Docket No. SY01106KQB

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
Account
Number
Deposit
Account
Name

19-0365

Schering-Plough Corporation

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments☐ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	180	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims	<input type="text"/>	-20** =	<input type="text"/>	X	<input type="text"/>	
Independent Claims	<input type="text"/>	-3** =	<input type="text"/>	X	<input type="text"/>	
Multiple Dependent					<input type="text"/>	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity - Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	130.00
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130.00

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)

Michael D. Davis

Registration No.
(Attorney/Agent)

39,161

Telephone 908-298-2194

Signature

Michael D. Davis

Date

02/17/2004

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FEB 25 2004

OFFICE OF PETITIONS PATENT NO: SY01106KQB US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

-----X
In re Application of: Martha A. Wild *et al.* : Examiner: Zachariah Lucas

For Patent: **Recombinant Infectious** : Group Art Unit: 1648
Laryngotracheitis Virus :
And Uses Thereof :

Serial No.: 09/994,064 :

Filed: November 6, 2001 :
-----X

PETITION FOR EXPUNGEMENT OF
INFORMATION UNDER 37 CFR §1.59

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants hereby request under 37 CFR 1.59 that the United States Patent and Trademark Office expunge from the file for the above-identified patent application the "Terminal Disclaimer To Obviate a Provisional Double Patenting Rejection Over a Pending Second Application" filed on July 8, 2003. The Applicants also authorize the Commissioner to charge Applicant's Deposit Account No. 19-0365 for the requisite fee under §1.17(h).

Subsequent to the Applicants' filing of the aforementioned Terminal Disclaimer in response to the Examiner's rejection for non-statutory obviousness double patenting, the Examiner determined that the rejection had been inappropriately made, and therefore, withdrew it. On September 15, 2003, the Examiner orally notified the undersigned Attorney of this withdrawal and indicated that the Applicants were now permitted to expunge the Terminal

04 RHEBRAHT 00000160 190365 09994064
60 130.00 DA

Disclaimer from the file. The Examiner memorialized his oral notification with a written Interview Summary, which was forwarded to the Applicants by facsimile on the same day as the telephone Interview. The Applicants acknowledge that the Interview Summary issued by the Examiner accurately and completely summarized the telephone Interview of September 15, 2003.

No additional fees are believed to arise due to this filing, however, if any additional fees are required, the Commissioner is hereby authorized to charge any required fees to Deposit Account No. 19-0365.

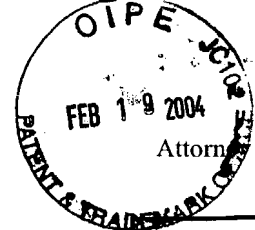
The Applicants believe that this petition will satisfy the Director and therefore, await notice of the granting of the petition for expungement.

Respectfully submitted,



Michael D. Davis
Attorney for Applicant(s)
Registration No.: 39,161
Telephone No.: (908) 298-2194
e-mail: michael.davis15@spcorp.com

SCHERING-PLOUGH
CORPORATION
Patent Department, K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, New Jersey 07033-0530
Date: February 16, 2004



Attorney Docket No.: SY01106KQB

PTO/SB/92 (08-03)

(Modified)

Application No.: 09/994,064

Filing Date: 11/06/2001

Applicant: Martha A. Wild, et al.

Title: RECOMBINANT INFECTIOUS LARYNGOTRACHEITIS VIRUS AND USES THEREOF

Certificate of Mailing under 37 CFR 1.8

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Commissioner for Patents
P.O. Box 1450
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Mail Stop: Petition

on 02/17/2004

Date

Signature

Michael D. Davis, Reg. No. 39,161

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Documents enclosed:

Petition for Expungement of Information (2 pgs.)

Certificate of Mailing (1 pg.)

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